

LOUISIANA

DEPARTMENT *of* REVENUE

2016 First Extraordinary Legislative Session Review

Policy Services Division

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Louisiana Department of Revenue

Administrative

Act 3 (SB 4) [R.S. 39:91(A), (B)(introductory paragraph), (D), and (E)] dedicates the first \$200 million of the Deepwater Horizon litigation to the Fiscal Year 2015-2016 Deficit Elimination Fund. Money in the fund can be appropriated and used only to provide a source of funds to eliminate all or a portion of the Fiscal Year 2015-2016 budgetary deficit. Effective March 3, 2016.

Act 11 (HB 111) [R.S. 32:8(B) and R.S. 47:1676(E)(1) and to repeal R.S. 47:1676(E)(2) and (3)] eliminates the Debt Recovery Fund; provides that monies in the fund will revert to the agency which referred the debt and nullifies current fiscal year appropriations from the fund to the Dept. of Transportation and Development. Effective March 9, 2016.

Credits and Incentives

Act 2 (SB 1) [R.S. 51:2365.1(A)(5) and (7)(a)] includes a college tournament or championship in the definition of a qualified event or qualified major event for purposes of the Major Events Incentive Program. Effective March 3, 2016.

Act 18 (HB 71) [R.S. 51:1787(A)(1)(c), (A)(2)(a) and (3), (B)(3)(c) and (d), (5), (6), and (7), and (K)] caps the amount of the rebate of sales and use taxes and the investment income tax credit available under the Enterprise Zone Program at \$100,000 per net new job created. Each net new job can only be counted once. For projects with an advance notification form filed on or after April 1, 2016, the amount of the credit will be \$1,000 per net new employee, unless either the net new employee for which the credit is claimed was receiving Supplemental Nutrition Assistance Program (SNAP), Women, Infants, and Children (WIC), Medicaid, unemployment benefits, or any other benefits from a similar public assistance program during the six month period prior to employment or the net new employee is hired by a participating business located in an enterprise zone. The amount of the credit will be \$3,500 for each new employee meeting the above qualifications. Effective March 10, 2016.

Act 21 (HB 2) [R.S. 47:6039] repeals the Student Assessment for a Valuable Education (SAVE) credit program in its entirety. Effective March 14, 2016.

Act 23 (SB 15) [R.S. 47:1675] changes the ordering of the application of tax credits and requires that refundable credits, other than the credit provided for in R.S. 47:6006, be applied before all other credits and payments of tax except for nonrefundable credits with no carry forward which will be applied first. Further provides that credits be applied against income tax first before being applied against franchise tax. Finally, provides that transferable credits with an effective date of transfer, as reflected in the Tax Credit Registry pursuant to R.S. 47:1524, on or before the due

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date of the tax return, without regard to extensions, may be claimed on the return while transferable credits with an effective date of transfer after the due date of the return, without regard to extensions, may be used as a payment. Effective March 10, 2016 and applicable to taxable periods beginning on or after January 1, 2016.

Act 28 (HB 22) [Act 125 of the 2015 Regular Legislative Session] Extends the reductions made to tax credits in Act No. 125 of the 2015 Regular Session through the sunset date of the provisions of the Act that originated as House Bill No. 62 of the 2016 First Extraordinary Session of the Legislature of Louisiana. Effective April 1, 2016.

Act 29 (HB 24) [Act 126 of the 2015 Regular Legislative Session] Extends the sunset of reductions to certain rebate programs made in Act No. 126 of the 2015 Regular Session through the sunset date of the provisions of the Act that originated as House Bill No. 62 of the 2016 First Extraordinary Session of the Legislature of Louisiana. Effective April 1, 2016.

Corporation Income and Franchise Tax

Act 1 (HB 7) amends and reenacts R.S. 47:287.71(B)(6); relative to corporation income tax; increases the exclusion for dividend income received from certain banking institutions from 72% to 100% of the amount of dividend income received. Effective March 3, 2016.

Act 6 (HB 20) [R.S. 47:287.86] Clarifies that the deduction for net operating losses is limited to a deduction equal to the lesser of 72% of net operating loss carryovers to a taxable year or 72% of Louisiana net income. Effective January 1, 2016 and applicable to all returns, regardless of the taxable year to which the return relates, filed on or after July 1, 2015.

Act 8 (HB 29) [R.S. 47:287.12] Changes the corporate income tax rate from a graduated schedule of rates dependent on the taxable income of the taxpayer to a flat rate of 6.5%. The flat corporate rate of 6.5% is contingent on and becomes effective upon approval by the voters of Louisiana of a constitutional amendment to be presented on the November 8, 2016 statewide ballot to repeal the corporate income tax deduction for federal taxes paid. If the repeal of the corporate income tax deduction for federal taxes paid is approved by the voters of Louisiana on the November 8 statewide ballot, the flat corporate rate of 6.5% will be applicable to tax years beginning on or after January 1, 2017.

Act 12 (HB 19) [R.S. 12:1368 and R.S. 47:601(A)(3), (C)(1) and (3), 602(G) and (H), and 611] changes the definition of the term “domestic corporation” to include all entities taxed as corporations pursuant to 26 U.S.C. Subtitle A, Chapter 1, Subchapter C for federal income tax purposes. Such entities will be treated and taxed in the same manner that such entities are treated and taxed for federal income tax purposes. Franchise tax liability will not extend to any limited

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liability company that is qualified and eligible to make an election to be taxed in accordance with the provisions of 26 U.S.C. Subtitle A, Chapter 1, Subchapter S on the first day of its fiscal or annual year or to any other entity that was acquired before January 1, 2014, but not earlier than January 1, 2012, by an entity that was taxed pursuant to 26 U.S.C. Subtitle A, Chapter 1, Subchapter S. Act 12 provides for a holding company deduction for any corporation, as defined in R.S. 47:601(C), that is subject to the franchise tax imposed by R.S. 47:601(A) and that is not subject to R.S. 47:602(B), (C), (D), (E), or (F), that have one or more subsidiaries. Such a corporation will be allowed to deduct from taxable capital, its investments in and advances to one or more subsidiaries, whether made directly or indirectly, when computing the corporation's franchise tax. "Subsidiaries" are defined as any corporation, as provided for in R.S. 47:601(C), that is subject to the franchise tax imposed by R.S. 47:601(A), in which at least eighty percent of the voting and nonvoting power of all classes of stock, membership, partnership, or other ownership interests are owned, directly or indirectly, by a corporation that is subject to the franchise tax as imposed by R.S. 47:601(A). Act 12 also increased the initial tax paid by every corporation or other entity subject to the franchise tax from \$10 to \$110. Effective March 10, 2016 and applicable to taxable periods beginning on or after January 1, 2017.

Act 16 (HB 55) enacts R.S. 47:287.82; relative to corporation income tax; requires that certain deductible interest expenses, intangible expenses, and management fees be added-back when computing corporation income tax liability. Effective March 10, 2016.

Act 24 (HB 116) [R.S. 47:287.86] Requires that net operating loss deductions be applied in order of the year of loss, beginning with the most recent taxable year to be applied first. Effective January 1, 2017.

Act 30 (HB 95) amends and reenacts R.S. 47:93(A) and (B), 241, 287.69, 287.442(B)(1), 300.6(A), and 300.7(A), enacts R.S. 47:55(6), and repeals R.S. 47:287.79, 287.83, and 287.85; relative to corporation income tax; repeals deductibility of federal income taxes paid for purposes of calculating corporation income tax. Effective January 1, 2017 if the electors of the State of Louisiana at the statewide election to be held on November 8, 2016 approve an amendment to Article VII, Section 4(A) of the Louisiana Constitution to eliminate the deductibility of federal income taxes paid in computing Louisiana corporation income taxes.

Excise Tax

Act 4 (HB 14) [R.S. 47:841(B)(7)] increases the tax levied on cigarettes by one and two-tenths of one cent per cigarette or 22¢ per package of twenty cigarettes. Effective April 1, 2016, the excise tax on cigarettes increases to \$1.08.

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Act 5 (HB 18) [R.S. 47:843(B) and (C)(3) and 851(B)(4)(b)] reduces the discounts for the reporting and remitting of excise taxes on certain tobacco products, the discount for stamping cigarettes and the discount for the reporting and remitting of excise taxes and the stamping of cigarettes to five percent. Effective April 1, 2016.

Act 7 (HB 28) [R.S. 26:345 and 354(D)] reduces the amount of the discount for accurately reporting and timely remitting on beverages of low alcoholic content to one and one-half percent and to two and one-half percent on beverages of high alcoholic content. Effective April 1, 2016.

Act 13 (HB 27) [R.S. 26:341(A) and 342] increases the tax levied on beverages of high and low alcoholic content. Effective April 1, 2016, the following excise tax is imposed:

- Liquor - \$0.80 per liter
- Sparkling wine - \$0.55 per liter
- Still wines with 14-24 percent alcoholic volume - \$0.35 per liter
- Still wines with more than 24 percent alcoholic volume - \$0.55 per liter
- Malt beverages - \$12.50 per barrel
- Low alcoholic content beverages - \$12.50 per barrel

Act 14 (HB 39) amended La. R.S. 47:551 to reenact a state and local tax levied upon the rental of an automobile. The Automobile Rental Tax is levied upon the gross proceeds derived from a lease or rental contract of an automobile, less any sales and use tax included in the contract. The Automobile Rental Tax is in addition to any tax, fee, or license imposed directly or indirectly. This is a separate and distinct tax from the state sales tax imposed by La. R.S. 47:301(7) on leases and rentals of tangible personal property, which includes motor vehicles. Effective April 1, 2016.

Sales Tax

Act 9 (HB 72) [R.S. 47:302(C) and 331(C)] repeals provisions that would have reduced the tax rate on interstate and international telecommunications services from two percent to one percent. Effective April 1, 2016.

Act 15 (HB 43) [R.S. 47:306(A)(3)(a)] limits the total vendors compensation for a dealer who operates one or more business locations within Louisiana to one thousand five hundred dollars per calendar month. Mandates that calculation of the deduction is to be based only on the taxes levied by R.S. 47:302, 321, 331, and R.S. 51:1286. Prohibits vendors compensation for taxes accounted for and remitted pursuant to R.S. 47:321.1 or any other sales tax levied by the state. Effective April 1, 2016.

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Act 17 (HB 59) amended La. R.S. 47:301(6)(a) relative to the definition of "Hotel" to include any establishment or person engaged in the business of furnishing sleeping rooms, cottages, or cabins to transient guests, where such establishment consists of sleeping rooms, cottages, or cabins at any of the following: (i) A single business location or (ii) A residential location, including but not limited to a house, apartment, condominium, camp, cabin, or other building structure used as a residence. Hotel does not include any establishment or person leasing apartments or single family dwelling on a month-to-month basis. The definition of dealer pursuant to La. R.S. 47:301(4) was also amended to include any person engaged in collecting the amount required to be paid by a transient guest as a condition of occupancy at a residential location as provided in La. R.S. 47:301(6)(a)(ii). The definition of dealer excludes persons leasing apartments or single family dwellings on a month to month basis. Effective July 1, 2016.

Act 22 (HB 30) of the 2016 First Extraordinary Session of the Louisiana Legislature defines remote dealers and requires remote dealers to file all applicable sales and use tax returns and remittances electronically. This applies to sales and use taxes levied pursuant to La. R.S. 47:302(K)(5). A vendor who qualifies as a dealer in this state as defined in La. R.S. 47:301(4) is prohibited from collecting the tax imposed under La. R.S. 47:302(K)(5) in lieu of collecting the sales and use tax imposed by a political subdivision, which is required to be remitted directly to the political subdivision. The provisions of Act 22 apply to tax periods beginning on and after April 1, 2016. Effective March 14, 2016.

Act 25 (HB 61) of the 2016 First Extraordinary Session of the Louisiana Legislature enacted La. R.S. 47:302(V), 321(L), and 331(S) which provide that certain state exclusions and exemptions are operative and in effect for the purposes of the imposition of state sales taxes pursuant to La. R.S. 47:301, 321, and 331. The effective date of Act 25 is April 1, 2016.

For the period beginning April 1, 2016 through July 1, 2018, certain state sales tax exemptions and exclusions will continue to be in effect with regard to the state sales tax levied pursuant to La. R.S. 47:302. For the period April 1, 2016 through July 1, 2016, only those sales tax exemptions and exclusions provided for in La. R.S. 47:321(L) will be operative and in effect purposes of the one percent (1%) tax levied pursuant to La. R.S. 47:321. For the period April 1, 2016 through July 1, 2016, only those sales tax exemptions and exclusions provided for in La. R.S. 47:331(S) will be operative and in effect purposes of the ninety-seven on hundredths of one percent (.97%) tax levied pursuant to La. R.S. 47:331 and the Louisiana Tourism Promotion District tax in the amount of three one hundredths of one percent (.03%) levied pursuant to La. R.S. 51:1286. State sales, purchases, use, leases or rental tax exemptions and exclusions not listed in Act 25 for the sale, use, consumption, lease or rental of tangible personal property and the sales of services will be subject to tax.

Louisiana Revised Statute 47:331(P) provides that the exemptions for sales of steam, water, electric power, or energy, and natural gas for business utilities will be inapplicable, inoperable and of no effect for the period beginning April 1, 2016 through April 1, 2019, as it applies to the taxes levied by La. R.S. 47:331.

Louisiana Revised Statute 47:331(Q) provides that the exemption in La. R.S. 47:305.51 for utilities used by Steelworks and Blast Furnaces shall be applicable, operable and effective for all

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taxable periods beginning on or after July 1, 2007 through March 31, 2016 and for all taxable periods on or after April 1, 2019. These utilities shall be subject to state sales tax levied in La. R.S. 47:331 for the period April 1, 2016 through March 31, 2019.

Act 26 (HB 62) of the 2016 First Extraordinary Session of the Louisiana Legislature enacted La. R.S. 47:321.1, which imposes an additional state sales tax in the amount of one percent (1%). This additional state sales tax is levied upon the sale at retail, the use, the consumption, the distribution and lease or rental of an item of tangible personal property and upon sale of services. The new state sales tax is in addition to the sales taxes already levied pursuant to La. R.S. 47:302, 321 and 331. This tax is to be collected by the dealer and wholesaler as provided by Chapter 2 of Title 47. The provisions of Act 26 shall become effective on April 1, 2016 and shall be inapplicable, inoperative and of no effect after June 30, 2018.

For the period April 1, 2016, sixty-five state sales, purchase, use, lease or rental tax exemptions and exclusions will continue to be operative and in effect with regard to the additional state sales tax levied pursuant to La. R.S. 47:321.1. The sales tax exclusion for the purchases, use and lease of manufacturing machinery and equipment as provided in La. R.S. 47:301(3)(i), (13)(k), and (28)(a) shall not be operative and in effect until July 1, 2016.

Act 31 (HB 31) proposes to amend Article VII, Section 4(A) of the Louisiana Constitution; relative to corporation income tax; resolves to submit to the electors of the State of Louisiana at the statewide election to be held on November 8, 2016 an amendment to Article VII, Section 4(A) of the Louisiana Constitution to eliminate the deductibility of federal income taxes paid in computing Louisiana corporation income taxes. Effective January 1, 2017, if approved by the electors of the State of Louisiana at the statewide election to be held on November 8, 2016.